

AMENDMENTS TO THE DRAWINGS:

The attached sheet of drawings includes changes to FIG. 9. This sheet, which includes FIGS. 9 and 10, replaces the original sheet including FIGS. 9 and 10. In FIG. 9, previously omitted elements 100 have been added.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

REMARKS

Enclosed is a replacement page showing the approved change to FIG. 9 and unchanged FIG. 10.

Claims 8 and 19 have been rejected under 35 USC 112, first paragraph. It is believed that this rejection is in error; the Examiner's attention is directed to page 16, lines 6 - 8 for an explanation of the relevant language. The Examiner is invited to suggest some other language which she considers more acceptable.

Claims 7 - 8 and 19 have been rejected under 35 USC 112, second paragraph as indefinite. It is believed that the amendment to claim 7, above, specifying the area in question overcomes the rejection of claim 7.

Regarding claims 8 and 19, the Examiner's attention again is directed to the discussion of a "wasp waste" configuration at page 16, lines 6 - 8.

Claims 3 - 9, 12, and 27 have been rejected under 35 USC 103(a) as unpatentable over Krafft.

First, it is observed that none of the art of record, including that found in an apparent second search in which the newly cited patent reference to Lin, 4,513,974, was located, has turned up a device which is intended to hold a scalpel in the operating room for presentation by a nurse holding the device to the surgeon. Up to this time, all of the medical devices disclosed in the cited art are two-handed trays for

sterilizing surgical instruments or parts of such trays that are wholly unsuitable for the use to which the present invention is directed.

Claim 3, as amended, sets forth a device for no-hands transfer of a scalpel wherein "the device including the grip being arranged... to present the straight scalpel handle in a vertical or near vertical position for grasping by a surgeon with a large portion of the straight scalpel handle on a side of the grip remote from the blade receiver in a cantilever condition extending beyond said device such that it is free of physical interference from adjacent parts of the device". This structure is neither shown nor suggested in Krafft. Krafft is a two-handed tray, not at all suitable for the purpose to which the present invention is directed. Enclosed is a copy of FIG. 1 of Krafft which has been marked-up to show that the alleged scalpel or scalpel substitute 30 cannot "hold a straight scalpel handle... in a cantilever condition extending beyond said device such that it is free of physical interference from adjacent parts of the device". That is to say, the height to which any element alleged to be a scalpel blade receiver and a scalpel handle grip, i.e. elements 10, 13 are taught in Krafft to be held at a height "h" well below the height of the side wall "H" of the Krafft tray.

Clearly, Krafft fails to meet applicant's teaching and specific claim language. Dependent claims 4 - 9, 12 and 27 are patentably distinguishable for these same reasons and for the structural and functional recitations recited therein.

Claims 13, 18 and 19 have been finally rejected under 35 USC 103(a) as unpatentable over Arp et al. Claim 13 as outlined above, is directed to a handling device for supporting "a scalpel with a straight handle in a cantilever arrangement whereby a substantial portion of the length of the straight scalpel handle is free of obstruction by the device". First, it must be recognized that the Arp et al. teaching, taken as a whole, is for a sterilizing tray system to be carried in both hands. Second, the sub-component illustrated in FIG. 3 is not suitable for presenting a scalpel to a surgeon. Third, the sub-component of FIG. 3 has no structure which can both provide a "blade receiving zone" and "a handle gripping area" "that cooperate to support a scalpel with a straight handle in a cantilever arrangement". Nothing in FIG. 3 would grip a straight handle of a scalpel and at the same time receive a scalpel blade. Not only is the device of FIG. 3 of Arp et al. not intended to present a scalpel, it is incapable of holding a scalpel with "a handle gripping area". Moreover, Arp et al. in FIG. 3 propose that the device be configured to be longer

than the surgical appliance so that there will be no circumstance where the "handle is free of obstruction by the device in a space surrounding said substantial portion" of the length of the straight scalpel handle. Notably, the device of FIG. 3 of Arp et al. can only work, apparently, with forceps of a special configuration and which are not commonly known to be a "sharps" instrument and are unrelated to the present invention.

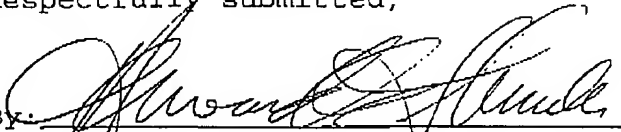
Dependent claims 14, 18, 19 and 28 are patentably distinguishable over the art of record for the reasons set out above in connection with claim 13, and for the further functional and structural limitations recited therein.

For all of the above reasons, it is respectfully submitted that claims 3-9, 12-14, 18-19 and 27-28 are now in a condition for allowance and notice to such effect is respectfully requested. Notice is taken that claims 10, 11, 15 - 17, 20 and 23 - 26 have been allowed.

If any technical objections remain, or are uncovered, the Examiner is invited to contact the undersigned to expedite a resolution of these details.

If there are any fees required by this communication, please charge the same to Deposit Account No. 16-0820, Order No. 35580US2.

Respectfully submitted,

By: 
Howard G. Shimola, Reg. No. 26232

1801 East Ninth Street
Suite 1200
Cleveland, Ohio 44114-3108

(216) 579-1700

January 16, 2006

Application No.: 10/634,072
 Amendment Dated January 16, 2006
 Reply to Office action of December 23, 2005

ANNOTATED SHEET SHOWING CHANGES

BEST AVAILABLE COPY

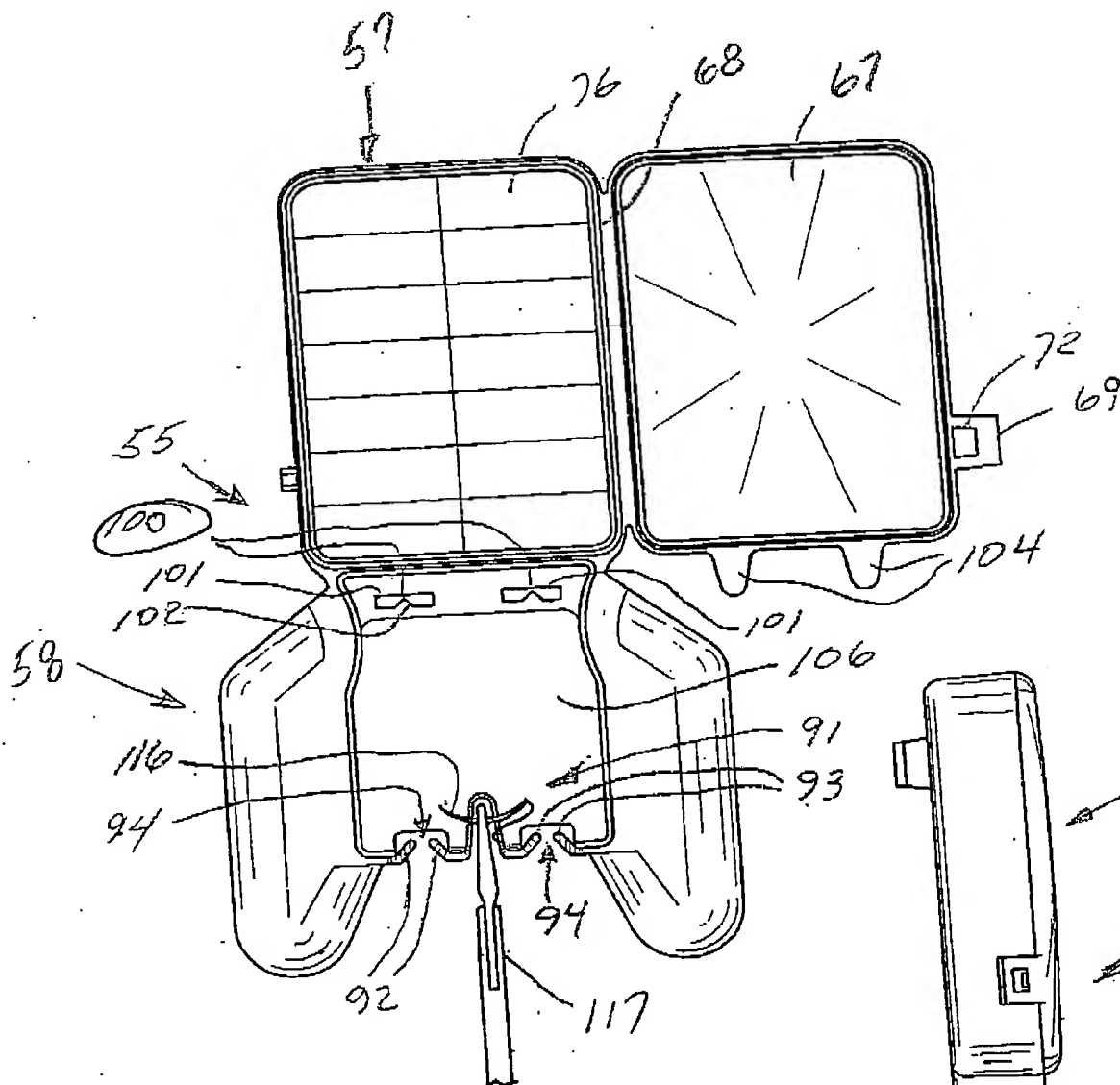


FIG. 9

FIG. 10

